

COPY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT

I.U. NORTH AMERICA, INC., and  
NOSROC CORPORATION,

*Plaintiffs,*

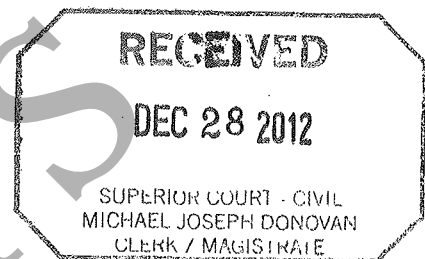
v.

RESOLUTE MANAGEMENT, INC.;  
NATIONAL INDEMNITY COMPANY;  
AMERICAN HOME ASSURANCE  
COMPANY; GRANITE STATE  
INSURANCE COMPANY; LEXINGTON  
INSURANCE COMPANY; and NEW  
HAMPSHIRE INSURANCE COMPANY,

*Defendants.*

CIVIL ACTION NO:

12-4636 BLS



**COMPLAINT FOR MONEY DAMAGES,  
DECLARATORY JUDGMENT, AND OTHER RELIEF**

Plaintiffs I.U. North America, Inc. and Nosroc Corporation (collectively, "I.U.N.A."),  
by and through their attorneys, Morgan, Lewis & Bockius, LLP, file this complaint for  
"Money Damages, Declaratory Judgment, and Other Relief," alleging as follows:

**Nature of this Action**

1. This action concerns a written settlement agreement (the "Settlement Agreement") between I.U.N.A. and American Home Assurance Company, Granite State Insurance Company, Lexington Insurance Company, and New Hampshire Insurance Company (the "AIG Defendants"). The Settlement Agreement establishes the manner in which the AIG Defendants are to make payments to I.U.N.A. under the AIG Defendants' insurance contracts that are the subject of the Settlement Agreement. The Settlement Agreement is a binding written contract. It is attached and incorporated in this complaint.

2. Following the execution of the Settlement Agreement in 2000 and continuing through the present, I.U.N.A. submitted monthly, and later quarterly, invoices to the AIG Defendants, which the AIG Defendants regularly paid for almost a decade, in recognition of their obligations pursuant to the Settlement Agreement. However, for no reason whatsoever, in or before 2009, and continuing thereafter until the present, the AIG Defendants, suddenly and without notice or explanation, ceased making payments and, despite repeated demands, materially and continuously breached the Settlement Agreement. On or about December 4, 2012, one of the AIG Defendants, American Home Assurance Company, made a payment of \$2,162,160.19, in recognition of its obligations pursuant to the Settlement Agreement, after yet another demand for payment by I.U.N.A. However, despite a further demand to pay the remaining sum of not less than \$11,046,023.77 owed to I.U.N.A. under the Settlement Agreement, the AIG Defendants have failed or refused to do so. Thus, the AIG Defendants still owe I.U.N.A. at least an additional \$11,046,023.77 in money damages, exclusive of interest, costs, attorneys' fees, and the other damages sought by this complaint. This continuous and material breach is currently caused by and is the responsibility of Resolute Management, Inc. ("Resolute"), acting on behalf of its affiliate National Indemnity Company ("NICO"). The AIG Defendants are also obligated to pay I.U.N.A. an additional sum of up to \$52,914,014.09 pursuant to the Settlement Agreement, exclusive of interest, costs, attorneys' fees and other damages. This complaint seeks relief for all of the foregoing.

### **Parties**

3. Plaintiff I.U. North America, Inc., at times also known as I.U. International Corporation, is a Delaware corporation having a principal place of business at 2300 Computer Avenue, Willow Grove, Pennsylvania.

4. Plaintiff Nosroc Corporation is a Pennsylvania corporation having its principal place of business at 2300 Computer Avenue, Willow Grove, Pennsylvania.

5. Defendant Resolute Management, Inc. is a subsidiary of Berkshire Hathaway, Inc. (“Berkshire” or “Berkshire Hathaway”) and is a Delaware corporation with its principal place of business at 1000 Washington Street, Boston, Massachusetts. Resolute holds itself out as a “third-party administrator” of the AIG Defendants’ obligations under the Settlement Agreement. Except as expressly stated otherwise herein, in performing the acts complained of herein, Resolute was the duly authorized agent of each of the AIG Defendants, acting within the course and scope of such agency with the full knowledge and informed consent of each of the AIG Defendants. Accordingly, except as stated otherwise herein, any reference to “AIG Defendants” shall include Resolute. Resolute also states that it is the agent of National Indemnity Company, or “NICO.” NICO is also a subsidiary of Berkshire Hathaway, and is an affiliate of Resolute.

6. Defendant National Indemnity Company is a subsidiary of Berkshire Hathaway, and is a Nebraska corporation, with its principal place of business at 3024 Harney Street, Omaha, Nebraska 68131. NICO is financially responsible for the obligations of the AIG Defendants owed to I.U.N.A.

7. Defendant American Home Assurance Company is an insurance company incorporated in New York with a principal place of business at 175 Water Street, 18th Floor, New York, New York.

8. Defendant Granite State Insurance Company is an insurance company incorporated in Pennsylvania with a principal place of business at 175 Water Street, 18th Floor, New York, New York.

9. Defendant Lexington Insurance Company is an insurance company incorporated in Delaware with a principal place of business at 100 Summer Street, Boston, Massachusetts.

10. Defendant New Hampshire Insurance Company is an insurance company incorporated in Pennsylvania with a principal place of business at 175 Water Street, 18th Floor, New York, New York.

**Jurisdiction and Venue**

11. This Court has jurisdiction over the defendants pursuant to M.G.L. c. 223A §§ 2 and 3, inasmuch as (i) the domicile and principal place of business of Lexington and Resolute is in Massachusetts; (ii) all defendants are licensed to conduct, and have in fact conducted, business in Massachusetts; and (iii) the wrongful conduct alleged in this complaint took place and continues to take place, in whole or in significant part, in Massachusetts.

12. Venue is proper in the Business Litigation Session because this case is a complex business dispute, involving over \$11,000,000 in damages, and Lexington's and Resolute's principal places of business are located in Boston, Massachusetts.

**I.U.N.A.'s Asbestos Suits and The  
AIG Defendants' Obligations to I.U.N.A.**

13. Thousands of asbestos suits have been filed against I.U.N.A. in various federal and state courts across the United States, including in Massachusetts.

14. The asbestos suits have alleged bodily injury, sickness, disease, or death resulting from alleged exposure to asbestos or asbestos containing materials allegedly manufactured, distributed and/or sold by I.U.N.A.

15. I.U.N.A. has paid and incurred hundreds of millions of dollars defending and settling the asbestos suits.

16. The AIG Defendants issued liability insurance policies to I.U.N.A. which are responsive to the asbestos suits, as referenced in the Settlement Agreement.

17. Following a prior dispute, on or about November 13, 2000, I.U.N.A. and the AIG Defendants entered into the Settlement Agreement, later supplemented by an

“Addendum” dated September 9, 2005. Pursuant to the Settlement Agreement, the AIG Defendants agreed to pay no less than \$72,251,000 and as much as \$74,251,000 to I.U.N.A. The Settlement Agreement is annexed to this complaint.

**The AIG Defendants Owe  
I.U.N.A. at least \$11,046,023.77 in Unpaid Invoices**

18. Following execution of the Settlement Agreement, I.U.N.A. rendered invoices to the AIG Defendants for payment and the AIG Defendants made payments pursuant to the terms of the Settlement Agreement.

19. For years, I.U.N.A. and the AIG Defendants established a consistent pattern of invoicing and payment under the Settlement Agreement. Any billing difference was resolved pursuant to the terms of the Settlement Agreement. After the 2005 Addendum was executed, there was regular and timely payment by the AIG Defendants up until such payments ceased, without cause or explanation, in 2008.

20. Through the course of their compliance with the Settlement Agreement, the AIG Defendants, by March 2008, had paid I.U.N.A. a total of \$8,128,802.14 for asbestos suit defense and settlement costs.

21. Such regular payment by the AIG Defendants was in fact what was contemplated by the Settlement Agreement. The Settlement Agreement requires the AIG Defendants to make full and timely payments even if there is a difference of view, question regarding, or a dispute over a particular invoice. Thus, the Settlement Agreement expressly provides that “[n]otwithstanding the pendency of any dispute, AIG [Defendants] will timely make all payments required under this Agreement ... .” (emphasis added).

22. Inexplicably, in or prior to 2009, the AIG Defendants abruptly ceased reimbursing I.U.N.A.’s defense and settlement costs, in direct breach of their contractual obligations under the Settlement Agreement. This breach has continued for years, despite repeated demands and requests for payments by I.U.N.A. There was neither cause nor

explanation for this complete and continuing repudiation of the AIG Defendants' contractual obligations.

23. I.U.N.A. made repeated efforts to obtain payment. These efforts were to no avail. Despite their prior course of conduct reimbursing I.U.N.A. for all such costs, and their agreement to pay such costs pursuant to the Settlement Agreement, the AIG Defendants arbitrarily and intentionally refused to reimburse I.U.N.A. for such costs, in breach of the Settlement Agreement. As of September 30, 2012, the AIG Defendants had accumulated a total approximate debt to I.U.N.A. of \$13,208,184.

24. Then, following several additional I.U.N.A. demands to the AIG Defendants for payment of all amounts due, on or about December 4, 2012, and in recognition of its obligations pursuant to the Settlement Agreement, American Home paid I.U.N.A. the sum of \$2,162,160.19. This payment was not specific as to invoices or as to amounts claimed by I.U.N.A. and did not account for interest, costs, attorneys' fees or other damages owed to I.U.N.A. as a result of the wrongful withholding of payments due under the Settlement Agreement.

25. Furthermore, as of the date hereof, the AIG Defendants owe I.U.N.A. not less than \$11,046,023.77 for amounts billed through September 30, 2012, exclusive of interest, costs, attorneys' fees and other damages owed by the AIG Defendants.

26. I.U.N.A. continues to invoice the AIG Defendants under the Settlement Agreement and the amount that the AIG Defendants owe to I.U.N.A. continues to grow.

27. The AIG Defendants also are obligated to pay I.U.N.A. up to an additional \$52,914,014.09 pursuant to the terms of the Settlement Agreement in to-be-invoiced amounts.

**NICO and Resolute's Continuing  
Interference with the Settlement Agreement**

28. In April 2011, the AIG Defendants entered into a transaction with NICO which, according to AIG's 2011 Securities and Exchange Commission Form 10K, or Annual Report, resulted in the AIG Defendants ceding "the bulk of [their] net domestic asbestos liabilities to NICO." More specifically, the AIG Defendants paid NICO \$1.65 billion in exchange for NICO's assumption of \$3.5 billion of the AIG Defendants' asbestos liabilities arising from historic policies and settlement agreements, including those with I.U.N.A.

29. Also according to AIG's 2011 Annual Report, "effective January 1, 2011, NICO assumed responsibility for claims-handling related to the majority of AIG's domestic asbestos liabilities," including the asbestos liabilities of I.U.N.A. As of the end of the quarter when the NICO assumption took place, or June 30, 2011, I.U.N.A. was owed \$9,349,356 by these defendants.

30. NICO states that it has delegated its newly-assumed claims-handling responsibilities to its affiliate Resolute Management, Inc. Both NICO and Resolute are direct or indirect wholly-owned subsidiaries of Berkshire.

31. Resolute has been responsible for the AIG Defendants' obligations under the Settlement Agreement since at least April 2011 and has caused the continuous breach of the Settlement Agreement since that time. I.U.N.A. has made repeated demands to Resolute to cure the AIG Defendants' breach of the Settlement Agreement. Resolute has continuously and repeatedly refused to do so or to perform in accordance with the Settlement Agreement.

32. The Settlement Agreement expressly provides that it "confers no rights, benefits or obligations upon any entity *other than the parties hereto*" and that it "may not be enlarged, modified or altered *excepted by a written agreement signed by both parties hereto.*" (Emphasis added).

33. At no point did I.U.N.A. agree either to NICO's or Resolute's purported assumption of the AIG Defendants' obligations to I.U.N.A. or to NICO turning over the administration of I.U.N.A.'s claims under the Settlement Agreement to Resolute, or to any delay in payment or other alteration or modification of rights or duties. As a result, there has not been an effective assignment or delegation of such rights or duties to NICO or Resolute. Nonetheless, Resolute, acting under the direction of NICO and not the AIG Defendants, has been controlling, exercising, and interfering with the contractual duties owed to I.U.N.A. by the AIG Defendants under the Settlement Agreement.

34. NICO's and Resolute's actions have deprived I.U.N.A. of the benefits to which I.U.N.A. is entitled under the Settlement Agreement and constitute tortious interference with the contractual relations between the AIG Defendants and I.U.N.A.

35. It has been alleged that NICO and Resolute have engaged in a pattern of tortiously interfering with contractual insurance relationships between other insurers and their policyholders. Other similarly-situated policyholders have sued NICO and Resolute seeking damages for such tortious interference, including suits filed in this Court. These complaints aver that such tortious conduct is a deliberate business practice of Resolute and NICO in violation of M.G.L. c. 176D and 93A.

#### **NICO Profits at I.U.N.A.'s Expense**

36. In exchange for \$1.65 billion, the AIG Defendants and their affiliates purported to remove a total of \$3.5 billion in asbestos liabilities from their books, netting a total benefit to the AIG Defendants and their affiliates of \$1.85 billion.

37. On the other side of the ledger, NICO's assumption of \$1.85 billion of net asbestos liabilities is part of a larger scheme employed by Berkshire. Berkshire has executed numerous similar transactions with other insurers, including CNA Financial Corp. and Lloyd's of London.



38. Berkshire profits through these deals by investing the money paid by the insurers in exchange for NICO's "assumption" of the asbestos liabilities (in this case, the \$1.65 billion paid by AIG), and then by delaying payment and/or breaching insuring obligations to policyholders, such as I.U.N.A. In this case, since April 2011, a period of more than 18 months, the Berkshire-affiliated defendants have withheld more than \$11,000,000 of I.U.N.A.'s money, and have instead invested the funds for Berkshire's benefit. Berkshire Hathaway's Chairman Warren Buffet refers to the money NICO owes to policyholders such as I.U.N.A. as "float." The term "float" is a euphemism for "stall," "defer," or "delay," which are less technical descriptions of Berkshire's operating method. Berkshire profits when it systematically refuses to pay or delays paying asbestos liabilities that are due to policyholders. In his 2011 letter to shareholders accompanying the 2011 Berkshire Hathaway Annual Report, Buffet elaborates on this scheme:

Our insurance operations continued their delivery of *costless capital* that funds a myriad of other opportunities. This business produces "float"—*money that doesn't belong to us*, but that we get to invest for Berkshire's benefit. *And if we pay out less in losses and expenses than we receive in premiums*, we additionally earn an underwriting profit, meaning that float costs us less than nothing.

39. Put another way, and using I.U.N.A.'s actual factual circumstances as an example, on or about June 30, 2011, Berkshire Hathaway's NICO subsidiary owed I.U.N.A. \$9,361,526.11, most of which it still has not paid. This is — as Buffet concedes — not Berkshire Hathaway's money, but I.U.N.A.'s money. This is "float." It is "costless capital," in the sense that Berkshire Hathaway has used I.U.N.A.'s money for 18 months, and has paid nothing to I.U.N.A. for the use of that money. In the meantime, Berkshire Hathaway has earned an internal rate of return of 22.1% (this is the average annual return over the past 40 years) or about \$3,103,345 on the "float." Furthermore, as it currently stands, Berkshire Hathaway has only paid \$2,162,160.19 out of the \$13,208,183.96 in loss that it agreed to

reimburse to I.U.N.A., earning what Buffett disingenuously terms as “underwriting profit” of \$11,046,023.77, and which most people would call fraud, or conversion, or at least “breach of contract” damages. This is how Berkshire Hathaway’s improper scheme works. Berkshire Hathaway not only admits that it profits from “money that doesn’t belong to us,” but its Chairman Warren Buffet is actually proud of how effective defendants NICO and Resolute have been in perpetrating this scheme and generating profits, in his words, “for Berkshire’s benefit.”

40. In this case, defendants NICO and Resolute must admit that the “money . . . doesn’t belong to [Berkshire]” – it belongs to I.U.N.A. Those funds paid by the AIG Defendants and its affiliates to NICO are funds that are owed to policyholders such as I.U.N.A. Rather than distribute those funds to I.U.N.A., Berkshire has instead converted that money for its own use. This is what Buffet refers to as “costless capital” and “money that doesn’t belong to us, but that we get to invest for Berkshire’s benefit.”

41. Elsewhere in his 2011 letter to shareholders, Buffet more directly explains that Berkshire’s “float” derives from a deliberate corporate policy to delay the payment of claims:

This *collect-now, pay-later model* leaves us holding large sums [such as the \$1.65 billion paid by AIG] – money we call “float” – that will eventually go to others [such as I.U.N.A.]. Meanwhile, we get to invest this float for Berkshire’s benefit.

42. By its own admission and conduct, therefore, Berkshire’s (and thus NICO’s and Resolute’s) pattern of conduct involves:

- Interfering with responsibilities owed under contracts without the approval or consent of the parties who granted such privileges and to whom such responsibilities are owed;
- Refusing to perform those responsibilities;
- Keeping for its own benefit money owed under contracts with other parties;
- Investing funds for its own enrichment, even though *the funds do not belong to it*; and

- Delaying or refusing to pay money it owes so that it can prolong its use of the assets *which do not belong to it* for its own enrichment.

**NICO's and Resolute's Tortious  
Interference with the Settlement Agreement**

43. NICO and Resolute are owned by and take instructions from Berkshire. NICO and Resolute work for the benefit of Berkshire, by withholding, reducing, and delaying payment of policyholder claims so as to generate profits for Berkshire, regardless of whether such actions cause the AIG Defendants to breach their contracts with policyholders such as I.U.N.A.

44. NICO and Resolute have interfered with the contractual relationship between I.U.N.A. and the AIG Defendants by causing the AIG Defendants (1) not to reimburse I.U.N.A.'s claims under the Settlement Agreement; (2) not to engage directly with their insured, I.U.N.A., despite their contractual obligations to do so; and (3) not to cure the breach of the Settlement Agreement or to perform pursuant to the Settlement Agreement despite having no legal basis to interfere with I.U.N.A.'s rights under the Settlement Agreement.

45. NICO and Resolute have injected themselves into the claims-handling process under the Settlement Agreement, despite having no right or privilege to do so. Through their conduct, NICO and Resolute have significantly altered, obstructed, and damaged the course of dealings between I.U.N.A. and the AIG Defendants. I.U.N.A. has been damaged as a result of such interference.

**COUNT I  
(Breach of Contract Against AIG  
Defendants – Past Due Amounts under Settlement Agreement)**

46. I.U.N.A. incorporates by reference Paragraphs 1 through 45 as though fully set forth herein.

47. I.U.N.A. entered into the Settlement Agreement with the AIG Defendants, which requires the timely reimbursement of costs and expenses relating to the defense and resolution of the asbestos suits.

48. Under the terms of the Settlement Agreement, the AIG Defendants have a duty to reimburse I.U.N.A. for the costs and expenses that I.U.N.A. incurs for asbestos suits and invoices to the AIG Defendants within forty-five (45) days of receipt of such costs and expenses.

49. The Settlement Agreement requires the AIG Defendants to pay I.U.N.A.'s invoices "*[n]otwithstanding the pendency of any dispute ...*" (emphasis added).

50. The AIG Defendants' duty promptly to reimburse I.U.N.A. for funds paid for asbestos suits is a material and fundamental aspect of the Settlement Agreement.

51. The AIG Defendants are aware of their obligations under the Settlement Agreement to pay for I.U.N.A.'s asbestos loss, as evidenced by their payment of \$8,128,802.14 in years prior to 2009 and by American Home's payment of \$2,162,160 on or about December 4, 2012.

52. In exchange for I.U.N.A. entering into the Settlement Agreement, the AIG Defendants are required to perform their duties to pay I.U.N.A. under the terms of the Settlement Agreement, including timely payment of invoices.

53. The AIG Defendants have failed, and continue to fail, substantially to perform their obligations under the Settlement Agreement by failing to reimburse I.U.N.A., for amounts rendered for payment, and are in material breach of the Settlement Agreement.

54. For amounts billed through September 30, 2012, the AIG Defendants have failed, and continue to fail, to reimburse I.U.N.A., as obligated by the Settlement Agreement, at least in the amount of \$11,046,023.77, exclusive of interest, costs and attorneys' fees.

55. As a direct and proximate result of the AIG Defendants' material breach of their obligations under the Settlement Agreement, which are continuing to at least the date of the complaint, the AIG Defendants have deprived I.U.N.A. of the benefit of the Settlement Agreement.

56. As a direct and proximate result of the AIG Defendants' material breach of the Settlement Agreement, I.U.N.A. has suffered damages in the amount of at least \$11,046,023.77, together with interest, costs and attorneys' fees.

**COUNT II**  
**(Declaratory Judgment Against All Defendants)**

57. I.U.N.A. incorporates by reference Paragraphs 1 through 45 as though fully set forth herein.

58. Despite the clear requirements under the Settlement Agreement for the AIG Defendants timely to reimburse I.U.N.A. for costs paid in defending and settling the asbestos suits, the AIG Defendants have refused to pay amounts invoiced pursuant to the Settlement Agreement.

59. A justiciable controversy exists between the parties relating to the AIG Defendants' obligations under the Settlement Agreement with respect to the reimbursement of defense and settlement costs.

60. A judicial declaration is therefore necessary and appropriate at this time, and under the circumstances alleged above, so that I.U.N.A. may ascertain its rights under the Settlement Agreement.

61. I.U.N.A. is entitled to a declaration that the AIG Defendants are in breach of the Settlement Agreement as well as a declaration delineating the AIG Defendants' obligations under the Settlement Agreement (i) to reimburse I.U.N.A. for past costs paid by I.U.N.A. in the defense and settlement of the asbestos suits; and (ii) to make prompt payment to I.U.N.A. of future invoices rendered to the AIG Defendants for payment.

**COUNT III**  
**(Declaratory Judgment Against All Defendants –  
Declaration as to Remaining Amounts Due To I.U.N.A.)**

62. I.U.N.A. incorporates by reference Paragraphs 1 through 45 as though fully set forth herein.

63. Pursuant to the Settlement Agreement, the AIG Defendants are obligated to pay up to \$72,251,000 in insurance limits of liability to I.U.N.A. in respect of I.U.N.A.'s asbestos suits. There is also a dispute between American Home and I.U.N.A. concerning the obligation of American Home to pay an additional \$2,000,000 in insurance limits to I.U.N.A. pursuant to policy number BE 2675280(E).

64. The AIG Defendants have paid a total of \$10,290,962.33 to I.U.N.A. The AIG Defendants currently owe to I.U.N.A. the sum of not less than \$11,046,023.77 in outstanding invoices, exclusive of interest, costs, attorneys' fees and other damages. Pursuant to the Settlement Agreement, and the insurance policies referenced therein, the AIG Defendants have remaining additional obligations to I.U.N.A. of not less than \$52,914,014.09, exclusive of interest, costs, attorneys' fees and other damages, including the additional \$2,000,000 in limits which I.U.N.A. has demanded be included in the monetary obligations owed to I.U.N.A. The defendants have refused to recognize the obligations of American Home to pay this additional \$2,000,000 pursuant to policy number BE 2675280(E).

65. I.U.N.A. seeks a declaratory judgment against all defendants that they have a continuing obligation to pay not less than \$52,914,014.09 due under the Settlement Agreement and remaining to be invoiced by I.U.N.A.

66. An actual and justiciable controversy exists concerning the obligations defendants owe to I.U.N.A. pursuant to the Settlement Agreement and the insurance policies referenced therein.

**COUNT IV**  
**(Breach of Implied Covenant of Good  
Faith and Fair Dealing Against All Defendants)**

67. I.U.N.A. incorporates by reference Paragraphs 1 through 45 as though fully set forth herein.

68. The Settlement Agreement and the insurance policies referenced therein between I.U.N.A. and the AIG Defendants are contracts and, as such, contain express and implied covenants of good faith and fair dealing.

69. The AIG Defendants have failed and refused to honor their contractual obligations to I.U.N.A. and otherwise to acknowledge, accept and undertake their obligations with respect to I.U.N.A. pursuant to the terms of the Settlement Agreement, and otherwise.

70. The AIG Defendants are in continuing breach of their obligations under the Settlement Agreement.

71. As a direct and proximate result of the AIG Defendants' breaches of the implied covenant of good faith and fair dealing, I.U.N.A. has suffered and is entitled to recover, direct, indirect, consequential and incidental damages in an amount to be determined at trial, including reasonable attorneys' fees and costs incurred in this action.

**COUNT V**  
**(Tortious Interference  
Against NICO and Resolute)**

72. I.U.N.A. incorporates by reference Paragraphs 1 to 45 as though fully set forth herein.

73. I.U.N.A. is a party to the Settlement Agreement.

74. NICO and Resolute knew of the Settlement Agreement and caused the AIG Defendants' continuing breach of the Settlement Agreement. NICO and Resolute failed, despite repeated demands, to cure the AIG Defendants' breach of the Settlement Agreement or to perform the AIG Defendants' obligations under the Settlement Agreement.

75. NICO's and Resolute's conduct in fact has caused, and continues to cause, the AIG Defendants to breach the Settlement Agreement, and such breach has resulted in damages to I.U.N.A. in the form of payments not received, loss of use of money, additional legal costs and expenses, and diversion of internal business resources, among others.

76. I.U.N.A. did not consent to any purported assignment of claims-handling rights or other duties under the Settlement Agreement from the AIG Defendants to NICO or Resolute.

77. NICO and Resolute have improperly interfered with the AIG Defendants' claims-handling decisions under the Settlement Agreement without any right, privilege, or justification to do so.

78. NICO and Resolute have exceeded their authority as respects the claims-handling rights or duties allegedly conferred by the AIG Defendants to NICO and Resolute.

79. NICO and Resolute have acted toward I.U.N.A. with oppression, fraud, and malice by wrongfully interfering with the AIG Defendants' performance of the Settlement Agreement, to the detriment of I.U.N.A.

80. NICO's and Resolute's oppressive, fraudulent, and malicious actions in causing the AIG Defendants to deny payment of I.U.N.A.'s claims are motivated solely by NICO's and Resolute's own financial gain, and these actions are aimed at affecting I.U.N.A.'s rights under the Settlement Agreement to the detriment of I.U.N.A. NICO's and Resolute's actions are intended to impose an unjust hardship on I.U.N.A., with flagrant indifference to I.U.N.A.'s rights, for the primary purpose of advancing NICO's and Resolute's financial interests without regard to the interests and rights of I.U.N.A.

81. As a direct and proximate result of NICO and Resolute's tortious interference, I.U.N.A. has suffered and is entitled to recover direct, indirect, consequential and incidental



damages in an amount to be determined at trial, including reasonable attorneys' fees and costs incurred in this action.

**COUNT VI**  
**(G.L. c. 93A – Unfair and**  
**Deceptive Trade Practices Against All Defendants)**

82. I.U.N.A. incorporates by reference Paragraphs 1 through 81 as though fully set forth herein.

83. At all times relevant, the defendants have been engaged in the trade or business of insurance in the Commonwealth of Massachusetts within the meaning of G.L. c. 93A.

84. I.U.N.A. has suffered a monetary loss in the amount of at least \$11,046,023.77 as a result of the AIG Defendants' (i) willful refusal to pay defense and settlement costs pursuant to the terms of the Settlement Agreement, (ii) arbitrary and intentional refusal to pay invoices for the same costs that they had previously paid, (iii) failure to advise I.U.N.A. regarding the basis of their refusal to pay such costs and failing to engage in good faith with I.U.N.A., and (iv) other tortious conduct that will be the subject of continuing discovery and trial.

85. The AIG Defendants' purposeful refusal to perform their obligations under the Settlement Agreement and disregard for their duty to fulfill their obligations under the Settlement Agreement with the utmost good faith constitutes knowing and willful violations of the Settlement Agreement.

86. The AIG Defendants' conduct constitutes unfair and deceptive acts and practices in the conduct of trade or commerce in violation of Mass. Gen. Laws c. 93A, § 2, *et seq.*, and actionable under § 11.

87. NICO's and Resolute's tortious interference with the interests and rights of I.U.N.A. constitutes an unfair and deceptive act and practice in violation of G.L. c. 93A.

88. NICO's and Resolute's purported assumption of the obligations of the AIG Defendants under the Settlement Agreement, and NICO's and Resolute's willful refusal to meet those obligations, also constitutes unfair and deceptive act and practice in violation of G.L. c. 93A.

89. The defendants' unfair and deceptive acts and practices took place primarily and substantially in the Commonwealth of Massachusetts.

90. As a direct and proximate result of these willful and unlawful actions, I.U.N.A. has suffered, and continues to suffer, direct and consequential damages in the amount of at least \$11,046,023.77, as well as attorneys' fees, expenses and costs in bringing this action.

91. Because of the tortious conduct of the defendants, and because of their willful, deliberate and planned violations of the Settlement Agreement, I.U.N.A. is entitled to treble its actual damages, and reasonable attorneys' fees and costs pursuant to G.L. c. 93A § 11.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs respectfully demand judgment as follows:


- A. That the Court enters judgment in their favor as to each Count of their complaint;
- B. An award of compensatory, consequential, and punitive damages in an amount in excess of the minimum jurisdictional requirements of the Court, to be determined at trial;
- C. Any and all costs and fees to which plaintiffs are entitled, including reasonable attorneys' fees and pre-judgment and post-judgment interest; and
- D. Any and all other relief that this Court may deem just and proper.

**JURY DEMAND**

Plaintiffs, I.U. North America, Inc. and Nosroc Corporation hereby demand a trial by jury on all issues so triable.

Respectfully submitted,

I.U.N.A. NORTH AMERICA, INC. and  
NOSROC CORPORATION  
By Their Attorneys,



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Dated: December 28, 2012

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**SETTLEMENT AGREEMENT BETWEEN AND AMONG  
I.U. NORTH AMERICA, INC., NOSROC CORPORATION AND  
CERTAIN AIG COMPANIES**

This Agreement is made and entered into by I.U. North America, Inc., its predecessors, successors and assigns (hereinafter referred to as "IUNA"), and Nosroc Corporation, its predecessors, successors, assigns and affiliates (hereinafter referred to as "Nosroc"), and by American Home Assurance Company, Granite State Insurance Company, New Hampshire Insurance Company and Lexington Insurance Company, on behalf of their predecessors, successors, assigns and affiliates (hereinafter referred to as "AIG Companies").

**RECITALS**

WHEREAS, certain AIG Companies issued certain Insurance Policies to G.&W.H. Corson providing coverage to Nosroc; and

WHEREAS, certain AIG Companies issued certain Insurance Policies to Pittsburgh Gage and Supply Company providing coverage to IUNA; and

WHEREAS, certain AIG Companies issued certain Insurance Policies to I.U. International Corporation providing coverage to IUNA and Nosroc; and

WHEREAS, there has been no agreement between IUNA, Nosroc and AIG Companies as to their respective rights and obligations concerning the application of the Insurance Policies to Asbestos-Related Bodily Injury Claims, as defined below; and

WHEREAS, certain of the Insurance Policies have become the subject of litigation in the United States District Court for the Eastern District of Pennsylvania captioned I.U. North America, Inc. v. Allianz Underwriters Ins. Co., et al. and Nosroc Corporation v. Allianz Underwriters Ins. Co., et al., Civil Action No. 93-CV-0215 (hereinafter the "Actions"); and

WHEREAS, IUNA, Nosroc and AIG Companies wish to define their respective rights and obligations under the Insurance Policies in accordance with the terms of this Agreement and to terminate this litigation between them;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and intending to be legally bound hereby, IUNA, Nosroc and AIG Companies agree as follows:

### AGREEMENT

#### Definitions

As used herein, the following terms have the following meanings:

1.0. "Allocated Expenses" means all fees and expenses incurred by or on behalf of IUNA and Nosroc for services performed that are attributable to the defense or disposition of any Asbestos-Related Bodily Injury Claims, exclusive of Liability Payments and Unallocated Expenses.

1.1. "Applicable Coverage Block" means the IUNA Coverage Block as to IUNA and the Nosroc Coverage Block as to Nosroc.

1.2. "Asbestos-Related Bodily Injury Claims" means claims or lawsuits for which an insured under the Insurance Policies is alleged to be or may be responsible by judgment, order, or settlement (including but not limited to that certain Agreement Concerning Asbestos-Related Claims dated June 19, 1985 [hereinafter referred to as the "Wellington Agreement"], the Producer Agreement Concerning Center for Claims Resolution dated September 28, 1988, as amended, and the CCR Defendants' Sharing Agreement Concerning That Stipulation of Settlement Between the Class of Claimants and

Defendants Represented by the Center For Claims Resolution dated January 15, 1993, as amended), by whomever brought and in whatever procedural posture such claims or lawsuits may arise, seeking monetary relief (whether or not such relief is the only relief sought) for bodily injury, sickness, disease or death, alleged to have been caused in whole or in part by any asbestos or asbestos-containing product(s). Asbestos-Related Bodily Injury Claims do not include statutory claims for compensation by an employee against his or her employer (such claims being commonly called "Workers' Compensation claims").

1.3. "Effective Date" means the first date by which all of the parties hereto will have executed this Agreement.

1.4. "Insurance Policies" means the general liability insurance policies issued by AIG Companies to G.&W.H. Corson providing coverage to Nosroc, to Pittsburgh Gage and Supply Company providing coverage to IUNA, and to I.U. International Corporation providing coverage to each of IUNA and Nosroc, and set forth in Attachment A hereto. Attachment A also sets forth for each Insurance Policy (a) the policy period, (b) the applicable liability limits (c) the total applicable underlying liability limits and (d) the level of exhaustion of each Insurance Policy, if any.

1.5. "IUNA Coverage Block" means all primary, umbrella and excess general liability insurance policies issued to Pittsburgh Gage and Supply Company and providing coverage to IUNA for the period June 1, 1970 through April 2, 1974, inclusive; and policies issued to I.U. International and providing coverage to IUNA for the period January 1, 1974 through February 28, 1982, inclusive. IUNA, in its sole discretion, may

add subsequent, consecutive years to the IUNA Coverage Block by providing written notice to AIG Companies.

1.6. "Liability Payments" means the sums paid in settlement of, or in satisfaction of a judgment on, any Asbestos-Related Bodily Injury Claims, exclusive of Allocated Expenses and Unallocated Expenses for such claims. Liability Payments are exclusive of any final judgment awarding punitive damages or amounts for conspiracy, concert of action, and/or willful breach of warranty if the law of the state governing the insurability of such damages in the particular case holds that awards for such amounts are not covered by insurance because of public policy or contract interpretation, provided, that, if such holding is by other than the highest court of the state in question, AIG Companies shall pay 50% of the applicable amount of such award.

1.7. "Nosroc Coverage Block" means all primary, umbrella and excess general liability insurance policies issued to G.&W.H. Corson and providing coverage to Nosroc for the period April 1, 1961 through April 10, 1976, inclusive; and policies issued to I.U. International and providing coverage to Nosroc for the period January 1, 1974 through February 28, 1982, inclusive. Nosroc, in its sole discretion, may add subsequent, consecutive years to the Nosroc Coverage Block by providing written notice to AIG Companies.

1.8. "Signatory Insurer" means an insurance company that signed the Wellington Agreement.

1.9. "Unallocated Expenses" means the overhead, operating and administrative expenses (other than Allocated Expenses) incurred in administering, defending and disposing of any Asbestos-Related Bodily Injury Claims.

1.10. Where the context so indicates or requires, each defined term stated in the singular includes the plural and each defined term stated in the plural includes the singular.

#### Scope of Agreement

2.0. This Agreement governs the application of the Insurance Policies to Asbestos-Related Bodily Injury Claims.

2.1. IUNA and Nosroc, or their designees, have the exclusive authority and discretion to administer, evaluate, settle, pay or defend all claims governed by this Agreement.

2.2. IUNA and Nosroc will respond to all reasonable requests by AIG Companies for information concerning claims handling, and AIG Companies will be afforded the opportunity to audit at any time, upon reasonable notice, the administrative, defense and settlement activities relating to any Asbestos-Related Bodily Injury Claims paid by AIG Companies pursuant to this Agreement.

#### Payment of Claims

3.0. AIG Companies will make Liability Payments and pay Allocated Expenses on Asbestos-Related Bodily Injury Claims to the extent that AIG Companies would have been obligated to do so had AIG Companies become a Signatory Insurer as to IUNA and



Nosroc; provided that (a) Liability Payments and Allocated Expenses will be allocated to AIG Companies as if each of IUNA's and Nosroc's insurers had agreed to make Liability Payments and pay Allocated Expenses under the terms of the Wellington Agreement (a copy of the Wellington Agreement is attached hereto as Attachment B); and (b) AIG shall have no obligation to pay any other amounts pursuant to Section XX of the Wellington Agreement. As to claims against IUNA and/or Nosroc for amounts claimed by one or more Signatory Insurers pursuant to Section XX of the Wellington Agreement, see the Supplemental Agreement attached hereto as Exhibit C (the "Supplemental Agreement"). All terms and conditions of the Wellington Agreement are incorporated herein by reference to the extent that they are not inconsistent with this Agreement. As to any conflict between the terms of this Agreement and the Wellington Agreement, the terms of this Agreement will govern. All reference to the "Asbestos Claims Facility" in the Wellington Agreement will be read as "The Center for Claims Resolution or other IUNA and Nosroc designee." Nothing in this Agreement shall be used to construe that the AIG Companies are Signatory Insurers. AIG Companies shall make payments for Liability Payments and Allocated Expenses included on actual bills issued by the Center for Claims Resolution ("CCR") to, and received by, AIG Companies up to and through the CCR Bill dated June 25, 2000 on the schedule set forth in Paragraph 4.0 below. AIG Companies shall make payments for Liability Payments and Allocated Expenses included on future bills beginning with the July 2000 CCR Bill pursuant to Paragraph 4.2 below.

3.1. Liability Payments and Allocated Expenses will be allocated to AIG Companies on the basis of the Applicable Coverage Block.

3.2. The applicable limit of each Insurance Policy will be reduced by all Liability Payments and Allocated Expenses paid by AIG Companies hereunder. Amounts paid by AIG Companies on Asbestos-Related Bodily Injury Claims will be allocated among the Insurance Policies pursuant to the Wellington Agreement. If an Insurance Policy is part of a quota-share layer, AIG Companies are obligated only to pay a proportionate share of the Allocated Expenses and Liability Payments for each Asbestos-Related Bodily Injury Claim, and that share shall bear the same relationship to the total amount of each payment for each such claim that the AIG Companies' applicable Insurance Policy limits bear to the total amount of the quota share layer of which its Insurance Policy is a part. Those Insurance Policies that are part of quota share layers are marked with an asterisk on Attachment A to this Agreement.

3.3. IUNA, Nosroc and AIG Companies disagree as to the existence of American Home Assurance Company policy # BE2675280(E) (policy period 4/2/74-6/1/74) (the "Disputed Policy"). If and when IUNA or Nosroc seeks coverage under the Disputed Policy, IUNA, Nosroc and AIG Companies agree to resolve the dispute pursuant to Paragraph 9.0 below.

3.4. None of the Insurance Policies require any payment for Liability Payments or Allocated Expenses incurred after the exhaustion of applicable aggregate limits. Upon the exhaustion of any applicable aggregate limits in each Insurance Policy,

IUNA and Nosroc shall make no further demand for Liability Payments or for Allocated Expenses incurred after exhaustion of such applicable aggregate limits under the coverage subject to such applicable aggregate limit. At that time, IUNA, Nosroc and AIG Companies each shall execute a Release concerning that applicable aggregate limit substantially in the form of Attachment D to this Agreement. AIG Companies shall have no obligation to pay to or on behalf of IUNA and Nosroc any Unallocated Expenses under any of the Insurance Policies.

#### Timing of Payments

4.0. With respect to all Liability Payments and Allocated Expenses incurred and billed through and including the CCR bill dated June 25, 2000, AIG Companies shall pay to IUNA and Nosroc, or their designee, \$6,939,139.93 in the following installments:

On or before 45 days after the Effective Date	\$ 2,313,046.65
On or before May 1, 2001	\$ 2,313,046.64
On or before February 2, 2002	\$ 2,313,046.64

4.1. All amounts due from AIG Companies pursuant to this Agreement will be billed by or on behalf of IUNA and Nosroc in accordance with the procedures then in effect with respect to billing insurers that are signatories to the Wellington Agreement for Liability Payments and Allocated Expenses allocable to IUNA and Nosroc under the terms of the Wellington Agreement, provided, that AIG Companies will be billed only for Allocated Expenses and Liability Payments actually incurred by and on behalf of IUNA and Nosroc or its designees. AIG Companies will have no obligation hereunder to pay any bills

for Allocated Expenses or Liability Payments in advance of the date that such amounts are actually incurred by or on behalf of IUNA and Nosroc or its designee.

4.2. Adjustments to the allocation of Liability Payments and Allocated Expenses incurred and billed through and including the CCR Bill dated June 25, 2000 necessary to bring such allocation in compliance with the provisions of this Agreement shall be included in the CCR Bill as soon as practicable following the Execution Date.

4.3. With the exception of the schedule set forth in Paragraph 4.0, above, AIG Companies will make all payments due under this Agreement to IUNA and Nosroc or its designee within forty-five (45) days of the receipt of such bills.

4.4. For each day that any payment is late, interest will be added to the amount that is overdue at an annual rate equal to the interest rate of the United States 3-month T-bill as published in the *Wall Street Journal* on the last business day of the previous month. AIG Companies shall not have the right to assert any defenses to payment other than those listed in Appendix B to the Wellington Agreement. Notwithstanding the pendency of any dispute, AIG Companies will timely make all payments required under this Agreement; such payments may be made pursuant to a reservation of rights and subject to reallocation upon a final resolution of such dispute.

#### Dismissal From the Action

5.0. Upon execution of this Agreement by the parties hereto, IUNA and Nosroc will dismiss the Insurance Policies from the Actions with prejudice. Each party shall

bear its own costs and attorneys' fees incurred in connection with the Actions and this Agreement.

Waiver of Claims of Other IUNA and Nosroc Insurers Against AIG Companies

6.0. IUNA and Nosroc agree that if in the future they enter into any settlements with any of their other insurers with respect to coverage for Asbestos-Related Bodily Injury Claims, IUNA and Nosroc will seek to obtain as part of the settlement agreement a dismissal, release and waiver of any claims such other insurers might have against AIG Companies on account of the Insurance Policies AIG Companies issued to IUNA and Nosroc with respect to Asbestos-Related Bodily Injury Claims and also with respect to such other matters as have been resolved by this Agreement and the Supplemental Agreement.

6.1. AIG Companies agree that they shall dismiss, release and waive any claims against other insurers based upon insurance policies issued to IUNA and Nosroc by any other insurer of IUNA and Nosroc who similarly agrees to dismiss, release and waive any such claims against AIG Companies with respect to such matters that have been resolved by this Agreement and the Supplemental Agreement. AIG Companies also agree to dismiss, release and waive any claims against any Signatory Insurer of IUNA or Nosroc on account of amounts that such Signatory Insurer has paid on IUNA/Nosroc's behalf, provided that the Signatory Insurer agrees to dismiss, release and waive any claims against IUNA and Nosroc for interest under Section XX of the Wellington Agreement.

### Confidentiality

7.0. Neither this Agreement nor its terms will be disclosed to any person not an officer, director, employee, lawyer or agent of a party hereto, except that this Agreement and its terms may be disclosed: (a) to any insurer or reinsurer of any of the parties hereto; (b) in any proceeding to enforce the terms of this Agreement; (c) in filings with government agencies as may be necessary to fulfill filing obligations; and (d) under a pledge of confidentiality to attorneys, auditors, government regulators, bond rating agencies, or lenders of the parties hereto if they so request and pursuant to a legitimate business purpose. Other than as stated above, a party hereto may disclose this Agreement to any other person or entity only if the other party consents in writing or the party is required to disclose this Agreement by court order. If a party is required to disclose this Agreement pursuant to a court order, it will notify the other party as soon as possible and provide a copy of the order upon receipt thereof.

### Construction, Entire Agreement, Duration

8.0. This Agreement was negotiated between the parties hereto at arm's length, with each party receiving advice from independent legal counsel. It is the intent of the parties that no part of this Agreement be construed against any of the other parties because of the identity of the drafter or the fact that AIG Companies is an insurance company.

8.1. This Agreement constitutes a single integrated written contract expressing the entire agreement between the parties hereto. This Agreement is separate, independent

and stands on its own. This Agreement confers no rights, benefits or obligations upon any entity other than the parties hereto. This Agreement supersedes any prior understandings and agreements among the parties, except the Insurance Policies, with respect to the subject matter herein. There are no representations, agreements, arrangements or understandings among the parties, oral or written, relating to the subject matter of this Agreement that are not fully expressed herein. Any statements, promises or inducements, whether made by any party or any agents of any party, that are not contained in this written agreement, will not be valid or binding. The failure or invalidation of any provision of this Agreement will not in any way affect the validity of, or performance of any party pursuant to, any other provision of this Agreement. This Agreement will have perpetual existence and may not be enlarged, modified or altered except by a written agreement signed by both of the parties hereto.

#### Alternative Dispute Resolution

9.0. If a dispute arises over the application, interpretation or performance of this agreement, the complaining Party must give written notice of the dispute to the other Party. Within thirty (30) days after the other Party receives the complaining Party's written notice, the Parties shall meet and confer for the purpose of attempting to resolve the dispute amicably. Thereafter, if the dispute cannot be resolved, the Parties will attempt to agree upon an alternative dispute mechanism for such disputes before initiating suit; however, nothing contained herein obligates the Parties to agree to any alternative dispute resolution mechanism.

Notices

10.0. Any and all statements, communications or notices to be provided pursuant to this Agreement will be in writing and sent by first-class mail, postage prepaid. Such notices will be sent to the individuals noted below, or to such other individuals as hereafter designated in writing:

**TO I.U. NORTH AMERICA, INC.:**

Leon Z. Heller, Esq.  
General Counsel and Secretary  
I.U. North America, Inc.  
1155 Business Center Drive  
Horsham, PA 19044  
Telephone: (215) 956-5636  
Fax: (215) 956-5424

**TO NOSROC CORPORATION:**

Leon Z. Heller, Esq.  
General Counsel and Secretary  
Nosroc Corporation  
1155 Business Center Drive  
Horsham, PA 19044  
Telephone: (215) 956-5636  
Fax: (215) 956-5424

**TO AIG COMPANIES TO:**

Mr. Anthony Iandoli, H.O. Supervisor  
Toxic Tort Claim Department  
AIG Technical Services, Inc.  
80 Pine Street, Tenth Floor  
New York, New York 10005

and

Mr. David Cameron  
AIG Europe (UK) Limited  
120 Fenchurch Street  
London EC3M 5BP  
ENGLAND



and

Mr. Ray Groves  
Claims Examiner  
Lexington Insurance Company  
110 Fenchurch Street  
London, EC3M 5JJ  
ENGLAND

Miscellaneous Provisions

11.0. Each party will take such steps and will execute such documents as may be reasonably necessary or proper to effectuate the purpose and intent of this Agreement.

11.1. Titles and captions contained in this Agreement are inserted only as a matter of convenience and are for reference purposes only. Such titles and captions are intended in no way to define, limit, expand or describe the scope of this Agreement or the intent of any other provision hereof.

11.2. This Agreement will be executed by each party in counterparts, all of which, when so executed and taken together, will constitute one and the same instrument. AIG Companies will deliver duly executed counterparts to IUNA and Nosroc and IUNA and Nosroc will deliver duly executed counterparts to AIG Companies.

11.3. The individuals who have executed this Agreement on behalf of IUNA and Nosroc and AIG Companies, respectively, expressly represent and warrant that they are fully authorized to sign on behalf of the applicable party for the purpose of duly binding such party to this Agreement.

IN WITNESS WHEREOF, this Agreement consisting of fifteen (15) pages, including this page, and four (4) attachments, has been read and signed by the duly authorized officers of the parties on the dates set forth below.

**I.U. North America, Inc.**

**AIG Technical Services Inc. on behalf of  
American Home Assurance Company and  
Granite State Insurance Company**

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Nosroc Corporation**

**AIG Europe (UK) Limited on behalf of  
New Hampshire Insurance Company  
Limited**

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Lexington Insurance Company**

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
Date

## ATTACHMENT A

**POLICIES ISSUED TO PITTSBURGH GAGE & SUPPLY COMPANY  
AND PROVIDING COVERAGE TO IUNA**

POLICY NUMBER AND PERIOD	APPLICABLE ANNUAL AGGREGATE LIMITS	APPLICABLE UNDERLYING LIMITS	APPLICATION OF ALLOCATED EXPENSES	EXHAUSTION TO DATE <sup>1</sup>
American Home Assurance BE2675280 (A) 04/02/71-03/01/72	\$1,000,000	XS primary (\$500,000)	Within Limits	\$ 1,705,513.84
American Home Assurance BE2675280 (B) 03/01/72-09/26/72	\$5,000,000	XS primary (\$500,000)	Within Limits	\$ 1,732,717.65
American Home Assurance BE2675280 (C) 09/26/72-09/26/73	\$2,000,000	XS primary (\$500,000)	Within Limits	\$ 1,532,054.93
American Home Assurance BE2675280 (D) 09/26/73-04/02/74	\$2,000,000	XS primary (\$500,000)	Within Limits	\$382,882.73

<sup>1</sup> As of June 25, 2000.

**POLICIES ISSUED TO G&WH CORSON, INC.  
AND PROVIDING COVERAGE TO NOSROC**

<b>POLICY NUMBER AND PERIOD</b>	<b>APPLICABLE ANNUAL AGGREGATE LIMITS</b>	<b>APPLICABLE UNDERLYING LIMITS</b>	<b>APPLICATION OF ALLOCATED EXPENSES</b>	<b>EXHAUSTION TO DATE</b>
American Home Assurance BE3372732 (A) 04/10/73-04/10/74	\$10,000,000	XS primary (\$300,000)	Within Limits	\$ 778,797.45
American Home Assurance BE3372732 (B) 04/10/74-04/10/75	\$10,000,000	XS primary (\$300,000)	Within Limits	\$ 751,530.78
American Home Assurance BE3372732 (C) 04/10/75-04/10/76	\$10,000,000	XS primary (\$300,000)	Within Limits	\$ 55,642.55

**POLICIES ISSUED TO I.U. INTERNATIONAL CORPORATION  
AND PROVIDING COVERAGE TO IUNA AND NOSROC**

<b>POLICY NUMBER AND PERIOD</b>	<b>APPLICABLE ANNUAL AGGREGATE LIMITS</b>	<b>APPLICABLE UNDERLYING LIMITS</b>	<b>APPLICATION OF ALLOCATED EXPENSES</b>	<b>EXHAUSTION TO DATE</b>
* Granite State Insurance Co. 6178-0028 03/01/78-03/01/79	\$2,500,000 p/o \$5,000,000	\$20,000,000 XS primary	Within Limits	\$0
Granite State Insurance Co. 6179-1093 03/01/79-03/01/80	\$5,000,000	\$20,000,000 XS primary	Within Limits	\$0
Granite State Insurance Co. 6180-1980 03/01/80-03/01/81	\$5,000,000	\$20,000,000 XS primary	Within Limits	\$0
* Granite State Insurance Co. 6180-1981 03/01/80-03/01/81	\$5,000,000 p/o \$10,000,000	\$25,000,000 XS primary	Within Limits	\$0
New Hampshire Insurance Company/London 551 UNA 0099 03/01/81-03/01/82	18.34% participation in \$15,000,000 policy	\$20,000,000 XS primary	Within Limits	\$0
New Hampshire Insurance Company/London 551 UPA 0055 03/01/82-03/01/83	16.667% participation in \$15,000,000 policy	\$10,000,000 XS primary	Within Limits	\$0
Lexington Insurance Company/London B3 SED 6377021520 (a/k/a 551 UPA 0055; 5570215) 03/01/82-03/01/83	33.3333% participation in \$15,000,000 policy	\$10,000,000 XS primary	Within Limits	\$0
Lexington Insurance Company/London B3 SED 6377021620 (a/k/a 551 UPA 0056; 5570216) 03/01/82-03/01/83	\$2,000,000 p/o \$10,000,000	\$25,000,000 XS primary	Within Limits	\$0

## ATTACHMENT C

SUPPLEMENTAL AGREEMENT BETWEEN  
I.U. NORTH AMERICA, INC., NOSROC CORPORATION  
AND CERTAIN AIG COMPANIES

WHEREAS, I.U. North America, Inc. ("IUNA"), Nosroc Corporation ("Nosroc") and Certain AIG Companies ("AIG Companies") desire to enter into that certain Settlement Agreement Between IUNA, Nosroc and AIG Companies dated September \_\_, 2000 (the "Settlement Agreement"); and

WHEREAS, execution of this Supplemental Agreement Between IUNA, Nosroc and AIG Companies (the "Supplemental Agreement") is a condition precedent to the effectiveness of the Settlement Agreement;

NOW, THEREFORE, in consideration of the Settlement Agreement and of the mutual covenants contained in this Supplemental Agreement, and intending to be legally bound hereby, IUNA, Nosroc and AIG Companies do hereby agree as follows:

1. AIG Companies shall indemnify IUNA and Nosroc for fifty percent (50%) of any liability arising from any claim by or on behalf of any Signatory Insurer alleging that a Signatory Insurer is owed interest by IUNA or Nosroc under Section XX of the Wellington Agreement on account of amounts that a Signatory Insurer has paid on behalf of IUNA or Nosroc in lieu of AIG Companies pursuant to Section XX of the Wellington Agreement.
2. IUNA and Nosroc shall provide AIG Companies with notice of any such claim. AIG Companies at their discretion shall have the right to participate in the defense of any such claim. If the AIG Companies elect to participate in the

defense of any such claim, the parties shall cooperate in the defense of the claim.

The participation of the AIG Companies in the defense of any such claim shall be at their own expense.

3. The foregoing rights and responsibilities shall be in addition to the parties' respective rights and responsibilities under the Settlement Agreement.
4. The terms used in this Supplemental Agreement shall have the meanings ascribed to them, if any, in the Settlement Agreement, unless other meanings are ascribed to them herein.
5. The confidentiality provisions set forth at Section 7.0 of the Settlement Agreement shall apply to this Supplemental Agreement as well.
6. This Supplemental Agreement shall be executed in duplicate originals and shall become effective on the date when both said originals, and the Settlement Agreement, have been signed by the parties hereto.

IN WITNESS WHEREOF, this Supplemental Agreement, consisting of three (3) pages, has been read and signed by the duly authorized representatives of the parties on the dates set forth below.

**I.U. North America, Inc.:**

**AIG Technical Services Inc. on behalf  
of American Home Assurance  
Company and Granite State Insurance  
Company**

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Nosroc Corporation:**

**AIG Europe (UK) Limited on behalf  
of New Hampshire Insurance  
Company Limited**

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Lexington Insurance Company**

\_\_\_\_\_  
By (Name and Title)

\_\_\_\_\_  
Date



**ADDENDUM TO SETTLEMENT AGREEMENT BETWEEN AND AMONG  
I.U. NORTH AMERICA, INC., NOSROC CORPORATION, AMERICAN HOME  
ASSURANCE COMPANY, GRANITE STATE INSURANCE COMPANY, NEW  
HAMPSHIRE INSURANCE COMPANY AND LEXINGTON INSURANCE COMPANY  
CONCERNING ASBESTOS-RELATED BODILY INJURY CLAIMS**

This Addendum (the "Addendum") is made and entered into by I.U. North America, Inc. ("IUNA") and Nosroc Corporation ("Nosroc") and their respective predecessors, successors, assigns and affiliates on the one hand, and by American Home Assurance Company, Granite State Insurance Company, Lexington Insurance Company and New Hampshire Insurance Company, together with their respective predecessors, successors, assigns and affiliates (hereinafter collectively and individually referred to as the "AIG Companies") on the other hand, to resolve a dispute between and among those parties arising under the Settlement Agreement Between and Among I.U. North America, Inc., Nosroc Corporation, American Home Assurance Company, Granite State Insurance Company, New Hampshire Insurance Company and Lexington Insurance Company Concerning Asbestos-Related Bodily Injury Claims, entered into on or about November 13, 2000 (the "2000 Settlement Agreement").

**RECITALS**

WHEREAS, certain AIG Companies issued certain Insurance Policies to G.&W.H. Corson that provide coverage to Nosroc and are among the Insurance Policies identified on Attachment A to the 2000 Settlement Agreement; and

WHEREAS, certain AIG Companies issued certain Insurance Policies to Pittsburgh Gage and Supply Company that provide coverage to IUNA and are among the Insurance Policies identified on Attachment A to the 2000 Settlement Agreement; and

WHEREAS, certain AIG Companies issued certain Insurance Policies to I.U. International Corporation that provide coverage to IUNA and Nosroc and are among the Insurance Policies identified on Attachment A to the 2000 Settlement Agreement; and

WHEREAS, certain of the Insurance Policies were the subject of litigation in the United States District Court for the Eastern District of Pennsylvania captioned I.U. North America, Inc. v. Allianz Underwriters Ins. Co., et al. and Nosroc Corporation v. Allianz Underwriters Ins. Co., et al., Civil Action No. 93-CV-0215 (the "Actions"); and

WHEREAS, to define their respective rights and obligations under the Insurance Policies and to settle the Actions, IUNA, Nosroc and the AIG Companies entered into the 2000 Settlement Agreement; and

WHEREAS, IUNA and Nosroc have been and in the future may be named in Asbestos-Related Bodily Injury Claims; and

WHEREAS, a dispute has arisen concerning the interpretation of the 2000 Settlement Agreement; and

WHEREAS, the AIG Companies' obligations under the Insurance Policies and the 2000 Settlement Agreement have become the subject of litigation in the Superior Court of the State of Delaware for New Castle County, I.U. North America, et al. v. A.I.U. Insurance Company, et al., Civil Action No. 01C-02-007 RSG (the "Shortfall Action"); and

WHEREAS, IUNA, Nosroc and the AIG Companies wish to define further their respective rights and obligations under the Insurance Policies and the 2000 Settlement Agreement and settle the Shortfall Action, as between themselves, in accordance with the terms of this Addendum;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and intending to be legally bound hereby, IUNA and Nosroc, on the one hand, and the AIG Companies, on the other hand (each individually a "Party" and collectively, the "Parties") agree as follows:

## **AGREEMENT**

### **I. DEFINITIONS**

For purposes of this Addendum, the capitalized terms not defined herein shall have the meanings ascribed to them in the 2000 Settlement Agreement. Where the context so indicates or requires, each defined term stated in the singular includes the plural and each defined term stated in the plural includes the singular.

### **II. MODIFICATIONS**

The 2000 Settlement Agreement shall be modified and amended as follows:

A. The following definition shall be added to the 2000 Settlement Agreement:

**"Shortfall Claims"** means claims or lawsuits alleging that IUNA and/or Nosroc are obligated for amounts initially allocated to members of the Center for Resolution (the "CCR") who withdrew from the CCR or whose membership in the CCR was terminated, and who currently are insolvent and/or have filed for bankruptcy protection under chapter 11 of the United States Bankruptcy Code ("Defaulting Former CCR Members").

B. The definition of Liability Payments shall be amended to include amounts IUNA and/or Nosroc have or will become liable to pay in settlement of, or in satisfaction of a judgment on, Shortfall Claims (the "Shortfall Liability Payments"); provided that, notwithstanding anything to the contrary in the 2000 Settlement Agreement or in this Addendum, Shortfall Liability Payments shall not be billed to the AIG Companies in accordance with the billing procedures set forth in Paragraphs

4.1 through 4.4 of the 2000 Settlement Agreement, but rather, will only be billed pursuant to the provisions of Section III of this Addendum.

C. The definition of Allocated Expenses shall be amended to include all fees and expenses incurred by IUNA and/or Nosroc in connection with the defense or disposition of Shortfall Claims ("Shortfall Allocated Expenses"); provided that, notwithstanding anything to the contrary in the 2000 Settlement Agreement or in this Addendum, Shortfall Allocated Expenses shall not be billed to AIG in accordance with the billing procedures set forth in Paragraphs 4.1 through 4.4 of the 2000 Settlement Agreement, but will only be billed pursuant to the provisions of Section III of this Addendum. By way of example, but not limitation, Shortfall Allocated Expenses include amounts incurred by or on behalf of IUNA and/or Nosroc to defend against so-called "enforcement actions" brought by asbestos claimants seeking to enforce their settlement agreements with certain CCR Members (including IUNA and/or Nosroc) against IUNA and/or Nosroc to recover unpaid amounts that were originally allocated by CCR to one or more Defaulting Former CCR Members under such settlement agreements. Shortfall Allocated Expenses shall also include counsel fees incurred by IUNA and/or Nosroc in connection with the negotiation of so-called "resettlements," (*i.e.*, subsequent settlements that resolve the disputes at issue in the enforcement actions). Shortfall Allocated Expenses do not include, however, so-called "Shortfall Special Counsel Expenses," which constitute amounts incurred by IUNA and Nosroc in 2001 related to the transition from so-called "bundled billing" to so-called "un-bundled billing" and the transition from CCR billing operations to Peterson Asbestos Claims Enterprise ("PACE"). The Shortfall Special Counsel Expenses allocated to IUNA and Nosroc are \$64,015.09 and \$18,776.71, respectively.

### **III. PAYMENT BY THE AIG COMPANIES**

A. The Parties agree and acknowledge that as of June 30, 2005, the unpaid balance of Shortfall Liability Payments and Shortfall Allocated Expenses owing from the AIG Companies to IUNA and Nosroc is \$168,340.30 for IUNA and \$438,801.95 for Nosroc (the "May 2005 Shortfall Balances"). The Parties further agree and acknowledge that IUNA and Nosroc have incurred and may continue to incur Shortfall Liability Payments and Shortfall Allocated Expenses after June 2005 (the "Post-May 2005 Shortfall Amounts").

B. Subject to the provisions of Paragraph III.F below, neither the May 2005 Shortfall Balances nor the Post-May 2005 Shortfall Amounts shall include any interest on account of any unpaid Shortfall Liability Payments or Shortfall Allocated Expenses.

C. PACE will continue to generate the so-called "shadow billings" on behalf of IUNA and Nosroc. The shadow billings shall depict, on a monthly basis, the cumulative amount of Shortfall Liability Payments and Shortfall Allocated Expenses allocated to the AIG Companies from November 2000 through the month and year immediately preceding the month in which the shadow bill is issued (the "Monthly Shadow Bills").

D. Beginning with the June 2005 billings generated by PACE on behalf of IUNA and Nosroc for so-called "bundled" and "unbundled" Asbestos-Related Bodily Injury Claims (the "Monthly PACE Billings") and continuing thereafter until the May 2005 Shortfall Balances are paid in full, the AIG Companies shall be billed and shall pay, in addition to any payments made in response to the Monthly PACE Billings, the lesser of (i) the then outstanding unpaid May 2005 Shortfall Balances; or (ii) the sum of \$100,000, which amount shall, in either case, be credited against the then outstanding unpaid May 2005 Shortfall Balances. The amounts so credited shall not

be applied to any billed amounts that are not attributable to Shortfall Claims. IUNA and Nosroc will continue to apply said credits in this manner until the May 2005 Shortfall Balances are paid in full.

E. Following the month in which the AIG Companies have paid in full the May 2005 Shortfall Balances:

1. PACE shall calculate and report, on a monthly basis, the balance owing by the AIG Companies in connection with Post-May 2005 Shortfall Amounts, by subtracting from the amount allocated to the AIG Companies, as set forth on then current Monthly Shadow Bill, the May 2005 Shortfall Balances that have been paid in full by the AIG Companies (the "Post-May 2005 Shortfall Balances"); and

2. Beginning with the first billing period following the date on which the AIG Companies have paid in full the May 2005 Shortfall Balances and continuing thereafter, the AIG Companies shall be billed in connection with the Post-May 2005 Shortfall Amounts and shall pay, in addition to any payments made in response to the Monthly PACE Billings, the lesser of (i) the then outstanding unpaid Post-May 2005 Shortfall Balances; or (ii) the sum of \$100,000, which amount, in either event, shall be credited against the then outstanding unpaid Post-May 2005 Shortfall Balances. The amounts so credited shall not be applied to any billed amounts that are not attributable to Shortfall Claims. IUNA and Nosroc will continue to bill the Post-May 2005 Shortfall Amounts and to apply the AIG Companies' payments in connection therewith in the manner set forth in this subparagraph III.E.2, until there are no longer any Post-May 2005 Shortfall Amounts billable to the AIG Companies and the Post-May 2005 Shortfall Balances have been paid in full.

F. Notwithstanding the provisions of Paragraphs III.B and III.E above, at any point in time should the unpaid balance of Post-May 2005 Shortfall Amounts exceed \$750,000 in the aggregate, then IUNA, Nosroc and the AIG Companies shall meet and confer in good faith within thirty (30) days of the AIG Companies' receipt of written notice from IUNA and Nosroc, for the purpose of agreeing on a payment stream that will promptly reduce the outstanding unpaid balance of Post-May 2005 Shortfall Amounts to no more than \$500,000 in the aggregate. In the event that the Parties are not successful in agreeing on such a payment stream after meeting and conferring, then each Party shall reserve its rights with respect to the then unpaid balance of Post-May 2005 Shortfall Amounts, and the unpaid Post-May 2005 Shortfall Balances shall accrue interest from the date that the outstanding unpaid Post-May 2005 Shortfall Balances first exceeded \$750,000 to the date on which the outstanding unpaid Post-May 2005 Shortfall Balances are paid in full by the AIG Companies, at the rate of interest announced publicly by Citibank, N.A., in New York, New York, from time to time as Citibank, N.A.'s Base Rate (or, in the event that the Citibank, N.A. Base Rate is not available, the prime interest rate reported from time to time in the Wall Street Journal).

G. Notwithstanding the foregoing, nothing in this Section III shall preclude IUNA and Nosroc from billing Asbestos-Related Bodily Injury Claims, Allocated Expenses, Shortfall Liability Payments and/or Shortfall Allocated Expenses incurred by IUNA and/or Nosroc that have not been billed as of June 30, 2005.

H. Notwithstanding anything herein to the contrary, nothing in this Section III shall be construed as relieving the AIG Companies of their payment obligations under the 2000 Agreement or this Addendum.

#### **IV. DISMISSAL FROM THE SHORTFALL ACTION**

Upon execution of this Addendum by all of the Parties, IUNA, Nosroc and the AIG Companies promptly will dismiss with prejudice their claims against each other in the Shortfall Action in connection with the Insurance Policies. Each Party will bear its own costs and attorneys' fees incurred in connection with the Shortfall Action and the negotiation, preparation and execution of this Addendum.

#### **V. WAIVERS AND RELEASES**

A. The AIG Companies hereby waive and release all claims and counterclaims of any type that have been or could have been asserted against IUNA and Nosroc based on events or actions prior to the execution of this Addendum in connection with Asbestos-Related Bodily Injury Claims, including but not limited to Shortfall Claims and the exhaustion of applicable underlying limits as a result of Asbestos-Related Bodily Injury Claims, Shortfall Claims or other products liability claims.

B. Notwithstanding anything to the contrary herein or in the 2000 Settlement Agreement, the foregoing release provisions of this Section V and the release provisions in the 2000 Settlement Agreement shall not apply to any known or unknown, suspected or unsuspected, past, present, existing, potential, or future obligations, duties, claims, demands, penalties, costs, fees, attorneys' fees, debts, actions, causes of action, choses in action, administrative actions or proceedings, suits, arbitrations, mediations or other proceedings, offsets, damages, injuries, rights, agreements, requests for relief, sums of money, losses or liabilities of any kind, nature, character or description, whether fixed or unliquidated, whether conditional or contingent, whether in law or



equity, arising under or relating to an alleged breach of this Addendum or the 2000 Settlement Agreement, and all such rights in connection therewith are hereby reserved by the Parties.

## **VI. NOTICES**

All communications to be provided pursuant to or in connection with this Addendum shall be in writing and shall be sent by facsimile or overnight delivery service, costs prepaid, to the Parties at the addresses set forth below, or to such other individuals and addresses as either Party may designate in writing from time to time:

If to IUNA and Nosroc:

Mr. John C. Heenan  
I.U. North America, Inc. and Nosroc Corporation  
2300 Computer Avenue  
Suite L-61  
Willow Grove, PA 19090  
Phone: (215) 659-2001  
Fax: (215) 659-9007

and

Rachel S. Kronowitz, Esq.  
Gilbert Heintz & Randolph LLP  
1100 New York Avenue, NW  
Suite 700  
Washington, D.C. 20005  
Phone: (202) 772-2273  
Fax: (202) 772-3333

If to the AIG Companies:

Anthony Iandoli  
Vice-President  
AIG Domestic Claims, Inc.  
101 Hudson Street, 29<sup>th</sup> floor  
Jersey City, NJ 07032  
Phone: (201) 631-7016  
Fax: (201) 631-5008

and

R. Jeff Carlisle Esq.  
Lynberg & Watkins  
16th Floor  
International Tower Plaza  
888 South Figueroa Street  
Los Angeles, CA 90017-5475  
Phone: (213) 532-7003  
Fax: (213) 892-2773

**VII. DISPUTE RESOLUTION**

Should any dispute arise concerning the terms, meaning or implementation of this Addendum, the Parties shall resolve the dispute consistent with Paragraph 9.0 of the 2000 Settlement Agreement.

**VIII. MISCELLANEOUS PROVISIONS**

A. Except as provided herein, this Addendum does not modify or supersede the Parties' rights and obligations under the 2000 Settlement Agreement and any attachments thereto.

B. The section titles, captions, and headings contained in this Addendum are designed and have been inserted herein only as a matter of convenience and for reference to the subject matter of this Addendum. Such section titles, captions and headings shall in no way be construed to define, limit, or extend the scope of this Addendum, and they shall be disregarded when resolving any dispute concerning the meaning or interpretation of any language contained in this Addendum.

C. The AIG Companies represent and warrant that the individual(s) executing this Addendum on behalf of the AIG Companies has corporate authority to bind the AIG Companies. IUNA represents and warrants that the individual executing this Addendum has corporate authority to bind IUNA, and Nosroc represents and warrants that the individual executing this Addendum has corporate authority to bind Nosroc.

D. This Addendum will be executed in triplicate counterpart originals, all of which together shall constitute one and the same instrument, and will become effective on the date when all the counterpart originals have been signed by all of the Parties hereto. One original counterpart Addendum is to be delivered to the AIG Companies, one original counterpart Addendum is to be delivered to IUNA, and one original counterpart Addendum is to be delivered to Nosroc.

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SCRIPPS

IN WITNESS WHEREOF, this Addendum consisting of twelve (12) pages (inclusive of the signature pages) has been read and signed by the duly authorized officers of the Parties on the dates set forth below.

Witness: [Signature]

Date: 9/12/05

**I.U. NORTH AMERICA, INC.**

Signature: [Signature]

Name: John C. Heenan

Title: Chief Executive Officer

Witness: [Signature]

Date: 9/12/05

**NOSROC CORPORATION**

Signature: [Signature]

Name: John C. Heenan

Title: President

**AIG DOMESTIC CLAIMS, INC.  
ON BEHALF OF AMERICAN HOME  
ASSURANCE COMPANY, GRANITE  
STATE INSURANCE COMPANY,  
LEXINGTON INSURANCE COMPANY,  
AND NEW HAMPSHIRE INSURANCE  
COMPANY LIMITED**

Witness: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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Lynberg-Watkins  
212 809 0642 TO 912138922773

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P.02

IN WITNESS WHEREOF, this Addendum consisting of twelve (12) pages (inclusive of the signature pages) has been read and signed by the duly authorized officers of the Parties on the dates set forth below.

**LU. NORTH AMERICA, INC.**

Witness: \_\_\_\_\_ Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_ Title: \_\_\_\_\_

**NOSROC CORPORATION**

Witness: \_\_\_\_\_ Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_ Title: \_\_\_\_\_

**AIG DOMESTIC CLAIMS, INC.  
ON BEHALF OF AMERICAN HOME  
ASSURANCE COMPANY, GRANITE  
STATE INSURANCE COMPANY,  
LEXINGTON INSURANCE COMPANY,  
AND NEW HAMPSHIRE INSURANCE  
COMPANY LIMITED**

Witness: [Signature] Signature: [Signature]  
Name: Anthony J. Iandoli  
Date: 9/9/05 Title: Vice President